

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

# IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESAL PRICE LITIGATION

MDL NO. 1456

Civil Action No. 01-12257-PBS

THIS DOCUMENT RELATES TO  
ALL CLASS ACTIONS

Hon. Patti B. Saris

Chief Mag. Judge Marianne B. Bowler

**MOTION BY JOHNSON & JOHNSON, CENTOCOR INC., KENNETH WEGNER,  
COLIN KONSCHAK, GRACE LEONE, TRINA GILLIES, JIM BIVONA AND BRETT  
BEITER TO QUASH SUBPOENAS AND FOR A PROTECTIVE ORDER  
PROHIBITING PLAINTIFFS FROM TAKING DISCOVERY OF FORMER  
CENTOCOR EMPLOYEES SUBPOENAED AFTER THE DISCOVERY CUT OFF**

Johnson & Johnson, Centocor Inc., Kenneth Wegner, Colin Konschak, Grace Leone, Trina Gillies, Jim Bivona and Brett Beiter respectfully move this Court to quash subpoenas and for a protective order prohibiting plaintiffs from taking discovery of former employees whom plaintiffs subpoenaed seeking depositions and documents after the discovery cut-off specified by Judge Saris in CMO 13 had expired. The former Centocor employees in question are movants Kenneth Wegner, Colin Konschak, Grace Leone, Trina Gillies, Jim Bivona and Brett Beiter. The grounds for this motion are set forth in the accompanying memorandum of law, declaration of Erik Haas, and exhibits thereto.

## REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), the undersigned counsel hereby request oral argument on the issues set forth in this motion and the accompanying memorandum of law and exhibits.

**CERTIFICATION PURSUANT TO LOCAL RULE 7.1**

Pursuant to Local Rule 7.1(a)(2), the undersigned counsel hereby certify that counsel for the movants conferred with counsel for plaintiffs regarding the issues addressed in this motion, but were unable to resolve or further narrow the issues.

Dated: September 27, 2005

Respectfully submitted,

/s/ Erik Haas

Andrew D. Schau (admitted *pro hac vice*)

Erik Haas (admitted *pro hac vice*)

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Johnson, Centocor Inc., Kenneth Wegner,  
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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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**[PROPOSED] ORDER GRANTING MOTION BY JOHNSON & JOHNSON,  
CENTOCOR INC., KENNETH WEGNER, COLIN KONSCHAK, GRACE LEONE,  
TRINA GILLIES, JIM BIVONA AND BRETT BEITER TO QUASH SUBPOENAS AND  
FOR A PROTECTIVE ORDER PROHIBITING PLAINTIFFS FROM TAKING  
DISCOVERY OF FORMER CENTOCOR EMPLOYEES SUBPOENAED  
AFTER THE DISCOVERY CUT OFF**

Having considered each of the parties' submissions with respect to the Motion By Johnson & Johnson, Centocor Inc., Kenneth Wegner, Colin Konschak, Grace Leone, Trina Gillies, Jim Bivona and Brett Beiter To Quash Subpoenas And For A Protective Order Prohibiting Plaintiffs From Taking Discovery Of Former Centocor Employees Subpoenaed After The Discovery Cut Off, the Court hereby grants the motion, quashes the plaintiffs' subpoenas served on Kenneth Wegner, Colin Konschak, Grace Leone, Trina Gillies, Jim Bivona and Brett Beiter, and issues a protective order barring plaintiffs from taking the depositions of or seeking discovery from these former Centocor employees.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Hon. Marianne B. Bowler  
United States Magistrate Judge

**CERTIFICATE OF SERVICE**

I certify that on September 27, 2005, a true and correct copy of the forgoing Motion By Johnson & Johnson, Centocor Inc., Kenneth Wegner, Colin Konschak, Grace Leone, Trina Gillies, Jim Bivona and Brett Beiter To Quash Subpoenas And For A Protective Order Prohibiting Plaintiffs From Taking Discovery Of Former Centocor Employees Subpoenaed After The Discovery Cut Off was served on all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to Verilaw Technologies for posting and notification to all parties.

/s/ Erik Haas

Erik Haas